

ENGLISH translation of the response of the Ministry of Internal Affairs of Romania

Request no. 1: Please provide any additional information and any comments on the above statements.

In order to abide by the principle of equidistance, I will relate certain aspects pertaining to the chronology of the events, which will undoubtedly make clear that the protest of August 10th cannot be described as a peaceful one.

The data below are excerpts from the Romanian Gendarmerie Report, according to the Journal of Operations. Thus:

13:55 hrs. - The activation of the command point in Victoria Square. At the moment, there were two small groups of protesters - one located in University Square and the other in Victoria Square.

The report states that, at the time of its establishment, the public order force disposition was a defensive one, the gendarmes wearing short-sleeved shirts, no helmets or protective gear. There was, therefore, no intention of intimidation or provocation on the part of the Gendarmerie.

16:22 hrs. - the first violent acts occurred. The Gendarmerie cordon was being forced and entrance into the courtyard of the Romanian Government headquarters was attempted. Stones and plastic bottles were thrown at the gendarmes.

Essentially, a mass of several hundred people came out of the pocket in front of the Antipa Museum, blocked the road traffic, feigned entrance on Kiseleff Boulevard, then suddenly changed direction towards the Government building and, bypassing the demarcated pocket perimeter, headed towards the entrance to the Victoria Palace's courtyard, coming from the direction of Paris Street, on the road, moving amidst the vehicles, as the road traffic was not restricted.

Meanwhile, pressure was exerted on the public order forces disposition located in front of the Government building, so as to prevent the gendarmes from regrouping in the area facing Paris Street.

In order to repel those who intended to break into the Government's building courtyard, the Gendarmerie made use of tear gas substances they were equipped with. Only at that moment was the security force disposition equipped with protective gear.
16:53 hrs. - the first gendarme is injured and transported to the hospital.

The report states that, although the conditions for ordering the intervention to restore public order were met at that time, according to the provisions of the Law 60 of 1991 on the organization and conduct of public assemblies, the gendarmes chose to act in a gradual, defensive and dissuasive manner, slowly succeeding in pushing the group of protesters back to into the pocket in Victoria Square, the initial place of the protest.

According to Article 17 of Law 60/1991, if public meetings lose their peaceful and civil nature, the Police and Gendarmerie can intervene to prevent or neutralize actions that seriously disturb public peace and order, endanger the life and physical integrity of the citizens and public order forces, or threaten to devastate or destroy buildings or other public or private assets.

18:48 hrs. - the appearance in the square of the first persons known to belong to football fans teams.

The report mentions that their arrival in the perimeter in which the protest was conducted was not organized, preventing the Gendarmerie from taking measures to block their access to the square.

One finding of the report is that the mode of exerting violence against the police forces has been a novel one, reflecting a change in the action plan. Thus, attacks were carried out individually or in organized groups, along the whole line of the security force disposition, with increased mobility, both in the immediate contact area and inside the mass of protesters, in the second and third rows.

This mode of action allowed the aggressors to use the first rows of protesters as a veritable human shield.

Also, peaceful demonstrators were reluctant to dissociate themselves from the aggressive elements. Consequently, the mission of isolating and extracting the violent individuals was made difficult and even impossible to accomplish.

This course of action has caused people who demonstrated peacefully to suffer the consequences of the actions of the public order forces, in their attempt to repel the violent individuals by the use of tear gas and irritants.

The report details dynamically the timing and frequency of violent actions against the gendarmes, as well as the violent acts that took place in the area behind the first row of protesters. There, people breaking the pavement and the kerbs in the area, in order to throw pieces of it at the police forces, were reported.

21:30 hrs. - a group of violent people, known to belong to football fans teams, appeared in the area of Iancu de Hunedoara Boulevard.

The order was given for setting up a security force disposition with the aim to isolate the group of violent football fans, but the action failed because of those demonstrators who did not separate themselves from the aggressive individuals.

In addition to the violence occurring in the immediate contact area with the Gendarmerie forces, instances of vandalism erupted in several areas of the square, such as the destruction of street furniture in the Antipa Museum area.

In the timeframe between 21:00 and 22:00 hrs., in compliance with the provisions of *Law 60/1991*, forewarnings and warnings were repeatedly issued by means of sound amplifying devices.

The final warning was issued at **22:02 hrs**, giving the protesters enough time to evacuate the square.

At 22:53 hrs., the 112 dispatch reported that of a group of people was acting violently near a fast food located on Buzești Avenue. Bucharest Gendarmerie called for the police to intervene, because they were unable to reach the area at that time. Initially, 2 patrol cars of the Special Action Service of Bucharest Police were dispatched to the area, and soon afterwards, two other patrols arrived to reinforce them.

Around 23:01 hrs., the teams reported that there was no violence or vandalism in the area, so they were ordered to withdraw.

Meanwhile, these police patrols were blocked by the crowd of people surrounding the cars, and consequently the Gendarmerie's support was required. Simultaneously, three other patrol cars headed for the same area were blocked in the Victoria Passage. At the Police's request, two Gendarmerie detachments were sent from Victoria Palace to the police patrols blocked in the fast food area.

That was the moment when the two gendarmes – a man and a woman – were cut off from the rest of the detachment, attacked and brutally assaulted, the sidearm (pistol) of one of them being stolen.

23:11 hrs. - the mission commander ordered the intervention to restore public order. The report details the arguments on which the order was grounded, specifically the need to eliminate the risks to the life and integrity of those present in the area, both demonstrators and gendarmes. Moreover, at the time a firearm had been stolen and was in the possession of one of the gendarmerie's assailants.

During the restoration of public order there were violent interactions between the security forces and the aggressors. Also, there were instances when people who did not behave violently, but did not leave the square when ordered, have suffered, as well as acts of vandalism against street furniture.

01:15 hrs. - public order was restored.

Regarding the use of tear gas, I want to state that the ammunition used contains active substances such as CS (O- Chlorobenzylidenemalonitrile) and OC (Oleoresin Capsicum), which are manufactured according to the European and international standards. I would like to emphasize that European public order forces, similar to Romanian Gendarmerie, are using these substances in their actions for restoring public order.

Also, I would like to stress the fact that Romanian Gendarmerie is not provided with and does not use during its specific missions „fragmentation projectiles (splinters/shrapnels)”, the institution's personnel being permanently coordinated with a view to inflict as little physical harm as possible, in proportion to the intensity and duration of the illegal aggressive acts.

The non-lethal ammunition and tear gas substances used are certified and have a quality and warranty certificate, as well as a declaration of conformity, and the equipment used by the Romanian Gendarmerie is purchased exclusively from legally authorized and certified manufacturers.

It is worth noting that the Gendarmerie has a legal basis for its use of tear-gas/irritant substances and intervention equipment. On the other hand, there is no similar law allowing protesters to use stones, metal bars or other blunt objects during a protest.

I would also like to point out that, as a result of the incidents occurred during the August 10th public demonstration, 452 people, including 33 gendarmes, needed medical attention on the spot. Out of this total, 70 were transported to the hospital, 14 of which were gendarmes, and 9 were hospitalized for at least 24 hours. Of the 9 persons hospitalized, 3 were gendarmes (even though the gendarmes have protective gear designed to withstand different types of blows). Also, 59 gendarmes filed applications for a legal medical certificate, and 268 gendarmes that took part in the mission from August 10th, 2018 have so far filed criminal complaints against the perpetrators of the assaults. Also, during the protest of August 10th, 2018, technical equipment owned and used by the law enforcement forces was destroyed or damaged. Until now, criminal reports against 50 persons have been drawn up and submitted to the Prosecutor's Offices and 64 persons have been fined for misdemeanours by the staff of the Gendarmerie.

As of November 5th, 2018, at the level of the General Directorate of Bucharest Police, seven criminal cases are ongoing, regarding offenses of theft, property damage, breaking of weapons and ammunition regulations, assault, disturbance of public peace and order, establishment of an organized criminal group, and public provocation. Against 20 persons criminal proceedings were initiated, 14 persons are held in pre-trial detention, one is held in house arrest, and for five persons the measure of judicial supervision was ordered.

In conclusion, on August 10th, 2018, on Victory Square, Bucharest, a protest was held, initially peaceful, in which the Romanian Gendarmerie used elements of dialogue and negotiation, but which subsequently lost its peaceful and civil character, escalating into violent actions, directed against the law enforcement forces and the fundamental institutions of the Romanian state.

Prior to and during the protest, messages/incitements to violence using dissemination channels of opinion makers, both in the online environment and in mass media, were published.

Regarding the statement that "a police officer who supported the protests was subjected to psychological test and could be subject to disciplinary action", the Romanian Police states the following:

On July 6th, 2018, at 13:50 hrs., the Police principal agent from Sector 5 Police, 24th Police Precinct, showed up for duty at the unit headquarters, and during the briefing before starting its duty, his supervisors chiefs noted that he was wearing its

service uniform (short-sleeved regulation shirt), with an inscribed white armband on his left arm (as an extension of the sleeve).

Taking into account the fact that the armband did not conform to the norms in force regarding the composition and the wearing of uniform, the police officer's supervisors asked him to remove the irregular accessory from the service uniform, but he expressly refused and stated that he was willing to take responsibility for the consequences of this gesture.

In this context, the leadership of the 24th Police Precinct ordered that the agent should not be issued with its weapon and be withdrawn from shift duty, given that duty could only be carried out in regulation uniform.

The above facts were the subject of checks performed at the level of the Internal Control Bureau within the Romanian Police.

As a result of the checks, evidence of violation by the police officer of the legal norms regarding the composition and wearing of the police uniform and of disobeying legal orders issued by its supervisors was found.

Given that the event of July 6th, 2018 was a singular incident, not of a repeatable nature, and subsequently the police officer carried out his duties in a proper manner and properly equipped, the measure put forward to the management of the General Directorate of Bucharest Police was the one provided by Article 581 of the Law no. 360/2002 on the Police Officer's Status, namely the warning of the police officer in order to prevent misconduct.

According to the provisions of the Regulation on the composition and wearing of police uniforms (Chapter I of Annex I of MIA Order No. 236 from, on the approval of the Regulation on the composition and wearing of police uniforms, as well as the Rules for the enforcement of the regulations regarding police equipment):

"The wearing of other non-specific or mixed items of equipment, with the exception of those described and provided under the regulations in force, is forbidden. Making alterations of equipment items contrary to the provisions of this Regulation is prohibited".

In addition, Article 5 of the MIA's Order no. 236 from September 30th, 2009 stipulates that "The heads of all structures of the Ministry of Administration and Interior are required to enforce the compliance of the subordinate personnel with the provisions of the Regulation for the composition and wearing of police uniforms".

Moreover, Article 4 paragraph 1 of the Law no. 360/2002 stipulates that "The police officer is required to uphold the fundamental human rights and freedoms, the Constitution and the laws of the country, the oath of allegiance to Romania, the provisions of the service regulations and to carry out the legal orders of his/her supervisors regarding his/her professional activity".

Regarding the statements made after the August 10th protest, I would like to state that I maintain and reiterate them: "According to the law, the Romanian Gendarmerie is the front-end of state authority and has legal powers to ensure the safety of citizens, protect state institutions and, especially, to restore public order, if it is severely disrupted. On August 10th we were in just such a situation. [...] The law applies equally to gendarmes, to violent individuals and to those who have incited such actions. And I can assure you that the Ministry of Internal Affairs will deal with this situation in an equidistant and non-discriminatory manner."

Request no. 2: Please provide details and, if appropriate, the results of any judicial or other type of investigations or inquiries made in connection with the allegations of use of force in the context of the demonstrations mentioned above. If there are no inquiries or if they were inconclusive, please provide explanations regarding the reason.

As the August 10th protest showed certain peculiarities, unlike others that took place in 2017 and 2018, a judicial procedure was initiated at the level of the Directorate for the Investigation of Organized Crime and Terrorism, in order to ascertain all issues related to the planning and purpose of this protest.

Also, at the level of the Prosecutor's Office attached to the High Court of Cassation and Justice, there is an investigation into the course of action taken by the Romanian Gendarmerie during the protest of August 10th, 2018.

Furthermore, the Prosecutor's Office attached to the Court of Bucharest Sector 1 investigates the 268 assault cases reported, along with those related to the serious disturbance of public order and peace and other crimes committed by the participants at the protest of August 10th, 2018.

Request no. 3: Please provide information on the measures taken to ensure that the constitutional referendum does not violate the equality of individuals before the law and does not violate the right to non-discrimination.

These issues exceed the responsibilities of the Ministry of Internal Affairs, since the review of the constitutionality of a decision adopted by the Romanian Parliament is the exclusive attribute of the Constitutional Court of Romania, which institution has been duly notified and has ruled on the matter.

On this topic, according to its responsibilities, the MIA prepared all the documents aimed at ensuring the operational framework required for the exercise of the constitutional right to participate in the referendum by the citizens entitled to vote, in conditions of normalcy and safety.

Against this background, according to Government's Decision no. 744/2018, the Ministry of Internal Affairs took measures to maintain and secure public order in the area of the polling stations and to ensure the security of the files drawn up by the election offices nationwide, during their transport to the election offices and to the

Central Election Bureau respectively; also, to provide security during the printing, transporting and storing of the ballots and other materials necessary for voting and to ensure the security of the Central Election Bureau, district election offices, and polling stations' election offices throughout the country.

Request no. 4: Please indicate what steps have been taken to ensure that human rights defenders, including protesters, can carry out their legitimate work in a safe and permissive environment, without fear of threats or acts of intimidation and harassment of any kind.

I would like to call to attention the fact that, prior to the protest of August 10th, 2018, the Gendarmerie was present at each of the protest manifestations, ensuring public order arrangements for their conduct under the conditions laid down by law, without obstructing the normal use of public roads, the public transportation, the functioning of public or private institutions, of education, culture, health or economic units, or to escalate into aggressive behaviour, liable to endanger public order and peace, the safety of persons, their bodily integrity, their life or property, or public property.

For example, in 2017 and 2018, Bucharest Gendarmerie managed 35 high-risk public order missions, of which 25 were led by the same commander who also coordinated the intervention on the evening of August 10th.

Therefore, as long as the protests were conducted in a peaceful and civilized manner, the Romanian Gendarmerie's personnel ensured the protection of the participants and of the citizens who passed through the area, without the need to use their equipment. The actions of the law enforcement forces have been informed by and will continue to be focused on the principles of legality, necessity and proportionality.

Also, as a consequence of the protest of August 10th, 2018, the reactions of the international community and of Romanian civil society, an expert working group was set up at the level of the Ministry of Internal Affairs with a view to review the domestic legal framework governing public gatherings, taking into account the current social realities, the existing legislation in other European countries, and the position of the European institutions in regard to the provision, by the Member States, of all the conditions required for the exercise of the freedom of expression and the right of assembly of the citizens, included and elaborated upon in the jurisprudence of the European Court for Human Rights and the Guidelines on Freedom of Peaceful Assembly, drafted by the European Commission for Democracy through Law (Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

Sincerely,

CARMEN DAN
Minister of Internal Affairs